

**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE**

AGENT LICENSING DIVISION

Treva W. Donnell, Director

SURPLUS LINES BROKER

LICENSING PROCEDURES AND INFORMATION

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This document is for general information purposes only. It does not amend or precede provisions of the Kentucky Revised Statutes or Administrative Regulations. For more complete information, refer to the Kentucky Insurance Code.

In general, it is against the law for anyone to place business with an unauthorized insurer. However, certain insurance coverage that is not available in Kentucky from authorized insurers may be purchased from unauthorized insurers but only through licensed surplus lines brokers and only under certain circumstances. The conditions for export are set out in KRS 304.10-040.

Also, surplus lines brokers may accept and place surplus lines business for any agent licensed in Kentucky for the kind of insurance involved and may compensate the agent.

Exceptions – The Surplus Lines Law does not apply to

- Reinsurance; and
- The following lines of insurance when placed by agents or surplus lines brokers licensed in Kentucky:
 - Ocean marine and foreign trade insurance,
 - Insurance on subjects located, resident, or to be performed wholly outside of Kentucky or on vehicles or aircraft owned and principally garaged outside Kentucky,
 - Insurance on railroads engaged in interstate commerce, and
 - Insurance on aircraft used by aircraft manufacturers or in commercial interstate flight or insurance against liability, or other than workers' compensation, arising out of the use of this aircraft.

Note: The Department recommends that the applicant for a non-resident surplus lines broker license also obtain a non-resident agent license with property and casualty lines of authority because the affidavit required by KRS 304.10-050 must clearly demonstrate the manner in which diligent effort was made to determine coverage was not procurable from authorized insurers. (The application for both the surplus lines broker license and the agent license may be made at the same time on one form.)

Statutory Responsibilities and Duties of Surplus Lines Broker – Specific requirements and restrictions, which are known as the Surplus Lines Law, are found in KRS 304.10-020 through 304.10-210. The licensee should refer to this section of the Kentucky Insurance Code for details including conditions for export, broker's affidavit, eligible surplus lines insurers, evidence of insurance, endorsements, records, annual statement, and taxes. Licensed surplus lines brokers will be held to compliance with these statutes as well as to all other applicable provisions in the insurance code.

WARNINGS

Notice of Action Against License – Every licensee must notify the Department of Insurance in writing within 30 days of initiation of

- **Disciplinary action** taken by any jurisdiction against the license or any other professional license; or
- **Criminal action** taken by any jurisdiction against the licensee.

Address Change or Name Change – Every licensee must notify the Department, in writing, of

any change in residence address, business address, or legal name within 30 days of the change. Agents, individual or business entity, surplus lines brokers, rental vehicle agents and managing employees, managing employees, reinsurance intermediary brokers, and reinsurance intermediary managers are subject to a penalty up to \$1,000 for failure to do so. Adjusters, administrators, life settlement brokers, life settlement providers, and consultants are subject to a penalty up to \$2,000.

Address changes should be submitted on Record Correction **Form 8303** either electronically through eServices (<http://insurance.ky.gov>) or by mailing the **Form 8303** to the DOI. (Moving from Kentucky to another state may require surrendering the resident license and applying for non-resident license. Also moving to Kentucky from another state may require surrendering the non-resident license and applying for a resident license.)

- **Name changes** should be submitted on Record Correction **Form 8303** either electronically through eServices (<http://insurance.ky.gov>) or by mailing in **Form 8303** to the DOI with pertinent legal documentation approving the name change, including any amendments filed with the Kentucky Secretary of State.
- **Mailing address for the DOI:**

Department of Insurance
Agent Licensing Division
Post Department Box 517
Frankfort, KY 40602-0517

Change of Home State – A non-resident licensee who changes his or her home state to a state other than Kentucky must file a change of address **Form 8303** either electronically through eServices (<http://insurance.ky.gov>) or by mailing in **Form 8303** and provide a Certification Letter from the new home state within 30 days of the change. No fee or license application is required.

Loss of Home State License – A Kentucky non-resident license based on reciprocity will automatically terminate and must be surrendered to the Department if the home state license terminates for any reason.

MISCELLANEOUS INFORMATION

Notice of Commissioner's Order – Every licensee is deemed to have received any notice or order of the Commissioner mailed to the licensee's address on file with the Department.

Licensee's Office Open to Public – If Kentucky is the home state, the licensee is required to have and maintain an office in Kentucky that is accessible to the public, and that is the place where the licensee principally conducts transactions under the license. This requirement does not prohibit the licensee from maintaining this office in the office of an insurer, in the office of the employer, or in the home of the licensee. (Kentucky is the home state if the licensee has a Kentucky resident license or has a Kentucky principal place of business without a resident license from another state.)

Display of License and Retention of Records – The license of all licensees must be conspicuously displayed in each Kentucky place of business in a part customarily open to the public. In addition, complete records of transactions under the license must be kept at the place

of business for at least five years after completion of the purpose for which it was created. [KRS 304.9-390 and 806 KAR 2:070]

Service of Process – All non-resident licensees are deemed to have irrevocably appointed the Kentucky Secretary of State to receive service of process in any court action against the licensee arising out of transactions under the Kentucky license.

Designations – A licensed business entity can only exercise its license through a designated individual. Each designated individual has to hold the same kind of license as the business entity. Further, the designated individual may only exercise the business entity license for the lines of authority held in common by both the business entity and the individual. Designated individuals for resident business entity must hold active license and at least one active insurer appointment. A non-resident business entity may designate its first actively licensed designee without him or her being appointed with an insurer; however, any subsequent designees must be appointed with an insurer.

Each licensed business entity must file with the Department

- **Form 8305 – Notice of the designation** of an individual within 30 days of the designation or termination of the designation; and
- **Bi-Annual report** by January 31, each odd year, of all designated individuals whose designations are not terminated prior to January 1. (The Department will provide the format to be used for this report.)

Certification / Clearance Letter from Kentucky Department of Insurance – If an applicant for a license in another state holds or has held a Kentucky resident license, the other state may require a letter from the Kentucky Department of Insurance. A certification letter states that the license is active and in good standing in Kentucky (needed to license a Kentucky resident licensee as a non-resident licensee in another state). A clearance letter states that the former licensee was in good standing at the time the Kentucky license terminated (needed to license a former Kentucky resident licensee as a resident licensee in another state). Kentucky has combined these two letters:

- If the license is active, the letter will serve as a certification letter for the current license activity; and
- If the license is no longer active, the letter will indicate the last date of license and the date it became inactive, thus serving as a clearance letter.

Each letter must be requested online at <http://insurance.ky.gov>; click eServices, set up a password-protected account, and complete the Certification/Clearance Letter Request Form. Complete the licensee's full name, identification number (the licensee's Social Security number, Federal Employer Identification Number, or Department of Insurance identification number), and type of letter needed. Also, the licensee must indicate where the processed paperwork should be mailed by providing the correct address on the request. Fees may be paid by credit or debit card online, or make check payable to the "Kentucky State Treasurer" in an amount of \$5 for each letter requested. The fee must be included with the request.

Certification / Clearance Letters to Kentucky Department of Insurance – Kentucky no longer requires a letter (only verification through the NAIC Producer Data Base) from the other

state if the applicant for a Kentucky license holds or has held a resident license in the other state.
Request for Kentucky non-resident license –

- Kentucky will verify electronically through NAIC Producer Data Base, that the non-resident applicant is licensed and in good standing in the resident state.
- A non-resident individual or business entity, which has a Kentucky non-resident license and changes its home state, must file Record Correction **Form 8303**.

Request for Kentucky Resident License –

- Kentucky will verify electronically through NAIC Producer Data Base, that the non-resident applicant is no longer licensed in the other state.

Purchase of Kentucky Insurance Code – Because there is so much involved in the licensing and the legal requirements imposed on a licensee, the Department suggests that every licensee get a copy of *Kentucky Insurance Laws and Regulations*. This Kentucky insurance code can be purchased for \$53.00 through the Department of Insurance. It will provide a better understanding of Kentucky insurance laws and procedures. In the alternative, the licensee may access Kentucky's insurance laws and administrative regulations through the Legislative Research Commission Web site at www.lrc.ky.us under "Kentucky Law."

Forms and Additional Information – Kentucky-specific applications and most other forms for all licensees are available through the Department's Web site at <http://insurance.ky.gov> under the "Agent Licensing" section of the menu titled "Licensee Procedures, Forms and Information." Also visit this Web site for additional information on all types of licenses, as well as verification of license status, continuing education credit, appointment, designations with business entities, etc. The Licensing Division is also available to provide information and answer questions through its e-mail address at DOI.AgentLicensingMail@ky.gov or by telephone at 502-564-6004.

INDIVIDUAL RESIDENT SURPLUS LINES BROKER

To be issued a resident surplus lines broker license, an individual must meet the requirements of KRS 304.10-120.

QUALIFICATIONS – Individuals applying for a surplus lines broker license must

- Hold a resident agent license with property and casualty lines of authority;
- Be competent and trustworthy with respect to the handling of surplus lines; and
- Be financially responsible.

APPLICATION – The applicant is required to certify, under penalty of perjury, that the application for the license is true. Further, the Department must receive the following to process the individual's application:

- ☐ Individual License Application – NAIC Uniform Individual Application or **Form 8301** (completed in its entirety and attaching the appropriate information) or electronically submit application through www.nipr.com.
- ☐ Criminal background report from the Administrative Office of the Courts (AOC) (obtain the report by applying online at <http://ky.courts.gov>), submit a copy of the report received with the application.
- ☐ Proof of financial responsibility:
 - Must have a Penal Bond – **Form 99-9 AND one of the following**
 - Errors & Omissions policy – **Form 99-1**, or
 - Letter of credit – **Form 99-2**, or
 - Surety bond – **Form 99-3**
- ☐ If using assumed name, copies of certified Certificate of Assumed Name filed with Kentucky Office of Insurance and with each Kentucky county clerk where the applicant intends to transact business
- ☐ All fees are non-refundable.

FEES – The applicant must remit \$100 for the license.

CRIMINAL BACKGROUND CHECK – Statutory changes require the Department to assume responsibility for investigating whether the individual applying for an agent license is trustworthy, reliable, and of good reputation before issuing the license. As part of that investigation, the individual must submit a current criminal background report with his or her completed license application. Each individual applicant must request a criminal background report from the Administrative Office of the Courts (AOC) online at:

<http://www.courts.ky.gov/aoc/AOCFastCheck.htm>. Under Help Links, click **Register/Log in to Public Menu**. If you are a first time user, click on **REGISTER** to create account; if you have an account, **LOGIN** with username and password, then click on **AOCFastCheck**, click **Add a New Batch**, under Category select **Licensing**, under Group select **Dept of Insurance DOI**, and under Reason select **Licensing**. Follow directions to complete your online request. Cost is \$15.

A copy of the report must be included with the application for license. Note that the background report from AOC is valid for 60 days. At the end of 60 days from the report issue date, a new report will be required if the license has not been issued. If you apply for a new license or new line of authority, a new background check report is required.

PRE-LICENSING TRAINING – N/A

EXAMINATION – N/A

FINANCIAL RESPONSIBILITY – Before being granted a surplus lines broker license and for as long as the license remains in effect, the individual must keep in force a:

- **Penal bond** issued by an authorized insurer for \$50,000 on **Form 99-9**. The penal bond must be issued in favor of the Commonwealth of Kentucky guaranteeing that the surplus lines broker will conduct business under the license in accordance with the provisions of KRS 304 Subtitle 10 and will promptly remit the quarterly taxes required by KRS 304.10-180 **AND**;

Must also have one of the following on file:

Evidence of financial responsibility in the sum not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, on the forms indicated below:

- **Errors and Omissions policy** issued by an authorized insurer on **Form 99-1**
- **Letter of credit** from a bank or other qualified financial institution on **Form 99-2**
- **Surety bond** issued by an authorized insurer on **Form 99-3**

Loss of Financial Responsibility – If at any time the proof of financial responsibility lapses for any reason and is not replaced by the deadline, the license will terminate by act of law. Details about the timely replacement of financial responsibility, which is being canceled, are set out in 806 KAR 9:210.

APPOINTMENT – N/A

ADDITIONAL LINES OF AUTHORITY – N/A

LICENSE RENEWAL – The license continues in force until expired, suspended, revoked, or otherwise terminated if the licensee makes a written request for continuation, confirms any applicable financial responsibility and certain other information in the Department's records, and pays the renewal fee of:

- \$100.00

License is renewed online.

- **Renewal notification is mailed** to the current address of record filed with the Department at least 30 days before the renewal deadline, and posted to the Web site six months prior to the renewal.
- **Confirmation** of renewal information is available on our Web site at <http://insurance.ky.gov> at **eServices**.
- **Renewal period** is based solely on the licensee's birth date.
- **Renewal deadline** is no later than the last day of the birth month in even numbered years if born in an even year, or odd numbered years if born in an odd year.

Each licensee must:

- **Renew online through eServices** at <http://insurance.ky.gov> or www.nipr.com.

The licensee may check the Department's Web site to confirm that the license has renewed.

Failure to Renew License by Deadline – If the Department does not receive the license renewal invoice and any required fees by the deadline, the license will be automatically terminate as of the deadline. The licensee will be prohibited from transacting insurance business until the license is reissued.

However, if the licensee submits the renewal invoice, the late renewal penalty payment, and any required renewal fees within 60 days after the deadline, the license may be reissued without the need for a new license application or other documentation. Upon expiration of the 60 days, the license will be inactive. Note that there will be a gap in the license (and any appointments) from

the inactive date until the date the Department receives and approves a reinstatement application with required attachments.

CONTINUING EDUCATION – N/A

INDIVIDUAL NON-RESIDENT SURPLUS LINES BROKER

Non-residents may be licensed in Kentucky by submitting the appropriate application and meeting the applicable requirements

- For reciprocity under KRS 304.9-140 if the applicant holds the same or substantially similar license in a reciprocal state OR
- For a resident if the applicant is not licensed in a reciprocal state or if Kentucky is the home state. (See the requirements in the information summary concerning the appropriate resident licensing requirements.)

QUALIFICATIONS for RECIPROCITY (KRS 304.9-140) – Unless denied a license under KRS 304.9-440, the non-resident applicant must

- Hold the same license as a resident in the home state and be in good standing;
- Hold the resident license from a home state that awards non-resident licenses to Kentucky residents on the same basis;
- Submit the proper request for license; and
- Pay the applicable fees.

APPLICATION – The applicant is required to certify, under penalty of perjury, that the application for the license is true. Further, the Department must receive the following to process the individual's application:

- ☐ **NAIC Uniform Individual Non-resident Application** (completed in its entirety and attaching the appropriate information) or electronically submit application at www.nipr.com
- ☐ If using assumed name, certified copy of Certificate of Assumed Name AND copy filed with each Kentucky county clerk where the applicant intends to transact business
- ☐ All fees are non-refundable

PRELICENSING TRAINING – N/A

EXAMINATION – N/A

FINANCIAL RESPONSIBILITY –N/A

APPOINTMENT – N/A

ADDITIONAL LINES OF AUTHORITY – No additional lines of authority are available under this license.

LICENSE RENEWAL – The license continues in force until expired, suspended, revoked, or otherwise terminated if the licensee makes a written request for continuation, confirms any

applicable financial responsibility and certain other information in the Department's records, and pays the renewal fee of:

- \$100.

License is renewed online.

- **Renewal notification is mailed** to the current address of record filed with the Department at least 30 days before the renewal deadline, and posted to the Web site six months prior to the renewal.
- **Confirmation** of renewal information is available on our Web site at <http://insurance.ky.gov> at **eServices**.
- **Renewal period** is based solely on the licensee's birth date.
- **Renewal deadline** is no later than the last day of the birth month in even numbered years if born in an even year, or odd numbered years if born in an odd year.

Each licensee must:

- **Renew online through eServices** at <http://insurance.ky.gov> or www.nipr.com.

The licensee may check the Department's Web site to confirm that the license has renewed.

Failure to Renew License by Deadline – If the Department does not receive the license renewal invoice and any required fees by the deadline, the license will be automatically terminate as of the deadline. The licensee will be prohibited from transacting insurance business until the license is reissued.

However, if the licensee submits the renewal invoice, the late renewal penalty payment, and any required renewal fees within 60 days after the deadline, the license may be reissued without the need for a new license application or other documentation. Upon expiration of the 60 days, the license will be inactive. Note that there will be a gap in the license (and any appointments) from the inactive date until the date the Department receives and approves a reinstatement application with required attachments.

CONTINUING EDUCATION – N/A

BUSINESS ENTITY RESIDENT SURPLUS LINES BROKER

To be issued a business entity surplus lines broker license, an individual must meet the requirements of KRS 304.10-120, KRS 304.9-130, and KRS 304.9-133.

QUALIFICATIONS – To be licensed as a surplus lines broker, the business entity applicant must:

- Hold a resident agent license with property and casualty lines of authority;
- Be competent and trustworthy with respect to the handling of surplus lines; and
- Be financially responsible.

Each individual who will act under the business entity license must

- Be licensed as an individual surplus lines broker; and
- Hold an active agent license for the underlying property/casualty lines of authority and be appointed with an insurer; and
- Be designated with the Department of Insurance to act on behalf of the business entity; and
- Have filed proof of financial responsibility.

APPLICATION – The applicant is required to certify, under penalty of perjury, that the application for the license is true. Further, the Department of Insurance must receive the following to process the business entity's application:

- ☐ Business Entity License Application – **Form 8301-BE** or NAIC Uniform Business Entity Application (completed in its entirety and attaching the appropriate information) or electronically submit application at www.NIPR.com
- ☐ Hold the underlying agent license with property/casualty lines of authority
- ☐ List of all designated individuals to act under business entity license (each individual must have a license and insurer appointment for each line of authority he or she will exercise for the business entity)
- ☐ For each individual to act under business entity license
 - Individual License Application (with required attachments) – **Form 8301** or **NAIC Uniform Individual Application**, or
- ☐ Register with the Kentucky Secretary of State at (www.sos.ky.gov)
 - Certificate of Existence or Good Standing from Kentucky Secretary of State
- ☐ If using assumed name, copies of Certificate of Assumed Name filed with Kentucky Secretary of State (www.sos.ky.gov) and each Kentucky county clerk where the applicant intends to transact business
- ☐ All applicable non-refundable fees

ADDITIONAL LINES OF AUTHORITY – N/A

LICENSE RENEWAL – The license continues in force until expired, suspended, revoked, or otherwise terminated if the licensee makes a written request for continuation, confirms any applicable financial responsibility and certain other information in the Department of Insurance's records, and pays the renewal fee

- Renewal fee is \$100.

The renewal invoice and the payment of the license renewal fee stated on the renewal invoice are due from the business entity licensee **by March 31 in**

- Odd-numbered years for a business entity licensed in an odd-numbered year, and
- Even-numbered years for a business entity licensed in an even-numbered year.

(At least 30 days before the renewal deadline, the Department will send the licensee the renewal letter.)

License is renewed online.

- **Renewal notification is mailed** to the current address of record filed with the Department at least 30 days before the renewal deadline, and posted to the Web site six months prior to the renewal.

- **Confirmation** of renewal information is available on our Web site at <http://insurance.ky.gov> at **eServices**.
- **Renewal period** is based solely on the licensee's birth date.
- **Renewal deadline** is no later than the last day of the birth month in even numbered years if born in an even year, or odd numbered years if born in an odd year.

Each licensee must:

- **Renew online through eServices at <http://insurance.ky.gov> or www.nipr.com.**

The licensee may check the Department's Web site to confirm that the license has renewed.

Failure to Renew License by Deadline – If the Department does not receive the license renewal invoice and any required fees by the deadline, the license will be automatically terminate as of the deadline. The licensee will be prohibited from transacting insurance business until the license is reissued.

However, if the licensee submits the renewal invoice, the late renewal penalty payment, and any required renewal fees within 60 days after the deadline, the license may be reissued without the need for a new license application or other documentation. Upon expiration of the 60 days, the license will be inactive. Note that there will be a gap in the license (and any appointments) from the inactive date until the date the Department receives and approves a reinstatement application with required attachments.

However, if the licensee submits the renewal invoice, the **late renewal penalty payment**, and any required renewal fees within 60 days after the deadline, the license may be reissued without the need for a new license application or other documentation. Upon expiration of the 60 days, the license will be inactive. Note that there will be a gap in the license (and any appointments) from the inactive date until the date the Department receives and approves a new application with required attachments.

CONTINUING EDUCATION – N/A

BUSINESS ENTITY NON-RESIDENT SURPLUS LINES BROKER

To be issued a non-resident business entity surplus lines broker license, the entity must meet the requirements of KRS 304.10-120, KRS 304.9-130, and KRS 304.9-133.

QUALIFICATIONS – To be licensed as a surplus lines broker, the business entity applicant must

- Hold the same license as a resident in the home state and be in good standing;
- Hold the resident license from a home state that awards non-resident licenses to Kentucky residents on the same basis;
- Submit the proper request for license; and
- Pay the applicable non-refundable fees

Each individual who will act under the business entity license must be

- Licensed as an individual surplus lines broker;

- Licensed for the underlying property/casualty agent license and hold an active appointment with an insurer;
- Designated with the Department of Insurance to act on behalf of the business entity license.

APPLICATION – The applicant is required to certify, under penalty of perjury, that the application for the license is true. Further, the Department of Insurance must receive the following to process the business entity's application:

- ☐ Business Entity License Application – **Form 8301-BE** or NAIC Uniform Business Entity Application (completed in its entirety and attaching the appropriate information) or electronically submit application through www.nipr.com
- ☐ Hold the underlying agent license with property/casualty lines of authority
- ☐ List of all designated individuals to act under business entity license (each individual must have a license and insurer appointment for each line of authority he or she will exercise for the business entity)
- ☐ For each individual to act under business entity license
 - Individual License Application (with required attachments) – **Form 8301** or **NAIC Uniform Individual Application**, or
 - Identification number for Kentucky agent license
- ☐ If using assumed name, copies of Certificate of Assumed Name filed with Kentucky Secretary of State (www.sos.ky.gov) and each Kentucky county clerk where the applicant intends to transact business
- ☐ All applicable non-refundable fees

The Certificate of Authority is no longer a prerequisite to licensure; however, the business entity should follow-up with the Kentucky Secretary of State's Office (www.sos.ky.gov) to ensure compliance with Kentucky laws.

FEES – The applicant must remit \$120 for the license plus all applicable fees for each individual or business entity for whom application is filed. (See fees for individuals applying for the same license in the prior section.)

PRE-LICENSING TRAINING – N/A

EXAMINATION – N/A

FINANCIAL RESPONSIBILITY – N/A

APPOINTMENT – N/A

ADDITIONAL LINES OF AUTHORITY – N/A

LICENSE RENEWAL – The license continues in force until expired, suspended, revoked, or otherwise terminated if the licensee makes a written request for continuation, confirms any applicable financial responsibility and certain other information in the Department of Insurance's records, and pays the renewal fee:

- Non-resident business entity \$120

The renewal invoice and the payment of the license renewal fee stated on the renewal invoice are due from the business entity licensee **by March 31 in:**

- Odd-numbered years for a business entity licensed in an odd-numbered year, and
- Even-numbered years for a business entity licensed in an even-numbered year.

(At least 30 days before the renewal deadline, the Department will send the licensee the renewal letter.)

License is renewed online.

- **Invoice is mailed** to the current address of record filed with the Department of Insurance and posted to the Web site six months prior to renewal.
- **Confirmation** of renewal information is on our Web site at <http://insurance.ky.gov> at eServices.
- **Renewal period** is based solely on the license date.
- **Renewal deadline** - License must be renewed no later than March 31 in even-numbered years if licensed in an even year, or odd-numbered years if licensed in an odd year.

The license renewal is solely the responsibility of the licensee. **Each licensee must:**

- Renew online through eServices at <http://insurance.ky.gov> or www.nipr.com.

License is continuous and a new license certificate will not be issued at renewal.

The licensee may check the Department's Web site to confirm that the license has been renewed.

Failure to Renew License by Deadline – If the Department does not receive the license renewal invoice and any required fees by the deadline, the license will be automatically terminated as of the deadline. The licensee will be prohibited from transacting insurance business until the license is reissued.

However, if the licensee submits the renewal invoice, the **late renewal penalty payment**, and any required renewal fees within 60 days after the deadline, the license may be reissued without the need for a new license application or other documentation. Upon expiration of the 60 days, the license will be inactive. Note that there will be a gap in the license (and any appointments) from the inactive date until the date the Department receives and approves a new application with required attachments.

CONTINUING EDUCATION – N/A